

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN MILWAUKEE DIVISION

MARCO HURTADO, as Father of)	
ILAN HURTADO, a minor, deceased,)	
)	
Plaintiff,)	
)	
v.)	
)	Case. No. 14-1093
SMEDEMA TRUCKING, INC., and)	
LEE HENRICKSEN)	JURY DEMAND
)	
Defendants.)	

COMPLAINT

NOW COMES the Plaintiff, MARCO HURTADO, as Father of ILAN HURTADO, a minor, deceased, by and through his attorneys, GREGORIO & ASSOCIATES, LTD., and for his Complaint against the Defendants, SMEDEMA TRUCKING INC. (hereinafter “SMEDEMA”), and LEE HENRICKSEN, (hereinafter “HENRICKSEN”), states as follows:

JURISDICTION AND VENUE

1. Plaintiff, MARCO HURTADO, is domiciled in Illinois.
2. Decedent, ILAN HURTADO, a minor, was domiciled in Illinois.
3. Defendant, LEE HENRICKSEN, is domiciled in Dodge County, Wisconsin.
4. Defendant, SMEDEMA, is a corporation organized under the laws of Wisconsin with its principal place of business in Fox Lake, Dodge County, Wisconsin.
5. That this court has jurisdiction over this action pursuant to 28 U.S.C. Section 1332 as there is complete diversity of citizenship between Plaintiff and Defendants and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

6. Venue is proper in the Eastern District of Wisconsin Milwaukee Division pursuant to 28 U.S.C. Section 1391 as Defendants, SMEDEMA and HENRICKSEN, reside within this district and division.

COUNT I - WRONGFUL DEATH – SMEDEMA

7. That on August 15, 2014, Plaintiff, MARCO HURTADO, was the father of nine (9) year old, ILAN HURTADO, a minor, deceased.

8. That on August 15, 2014, ILAN HURTADO, a minor, deceased, was a passenger in a vehicle operated by Judith Haddad, in a southbound direction on County Road A at or near the intersection of Indian Hills Trail, in the City of Beaver Dam, County of Dodge, and State of Wisconsin.

9. That on August 15, 2014, the Defendant, HENRICKSEN, was operating a tractor trailer in a southbound direction on County Road A at or near the intersection of Indian Hills Trail, in the City of Beaver Dam, County of Dodge, and State of Wisconsin.

10. That on August 15, 2014, the Defendant, HENRICKSEN, was an employee, agent, and servant of Defendant, SMEDEMA, and in the scope of his employment while operating a tractor trailer in a southbound direction on County Road A at or near the intersection of Indian Hills Trail, in the City of Beaver Dam, County of Dodge, and State of Wisconsin.

11. That at the aforementioned time and place, the vehicle the Defendant, HENRICKSEN, was operating struck the rear of the vehicle in which ILAN HURTADO, a minor, deceased, was a passenger.

12. That at the aforementioned time and place, the Defendant, SMEDEMA through its employee, agent, and servant Defendant, HENRICKSEN, owed the duty to operate said motor

vehicle in a reasonably safe manner and to exercise ordinary care and caution so as to not cause injuries to others, and specifically owed said duty to ILAN HURTADO, a minor, deceased.

13. That the Defendant, SMEDEMA, through its employee, agent, and servant Defendant, HENRICKSEN, was then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- (a) Failed to decrease the speed of said vehicle;
- (b) Failed to keep a proper lookout during the operation of said motor vehicle;
- (c) Proceeded at a speed which was greater than was reasonable and proper;
- (d) Failed to maintain control of his vehicle;
- (e) Failed to stop his vehicle to avoid a collision;
- (f) Negligently and carelessly struck the rear of Plaintiffs vehicle.

14. That one or more of the aforesaid careless or negligent acts and/or omissions of the Defendant, SMEDEMA, through its employee, agent, and servant Defendant, HENRICKSEN, was a proximate cause of the accident and personal injuries hereinafter stated.

15. That as a direct and proximate result of one or more of the aforesaid careless or negligent acts and/or omissions of the Defendant, SMEDEMA, through its employee, agent, and servant Defendant, HENRICKSEN, the decedent, ILAN HURTADO, a minor, sustained severe personal injuries, resulting in his death.

16. As a result, Plaintiff, MARCO HURTADO, father of the decedent, has suffered great losses of a personal and pecuniary nature, including loss of comfort, society, and companionship of the decedent and medical bills and funeral expenses have been incurred for the decedent subjecting the Defendant, SMEDEMA, to liability pursuant to Wis. Stat. Section 895.03, commonly known as the Wisconsin Wrongful Death Act.

17. That the Plaintiff, MARCO HURTADO, as Father of ILAN HURTADO, a minor, deceased, brings this wrongful death action pursuant to Wis. Stat. Section 895.04.

WHEREFORE, MARCO HURTADO, as Father of ILAN HURTADO, a minor, deceased, requests that judgment be entered in his favor and against the Defendant, SMEDEMA TRUCKING, INC., for an amount in excess of \$75,000.00, plus costs of this suit, and demands trial by jury.

COUNT II - WRONGFUL DEATH - HENRICKSEN

18. That on August 15, 2014, Plaintiff, MARCO HURTADO, was the father of nine (9) year old, ILAN HURTADO, a minor, deceased.

19. That on August 15, 2014, ILAN HURTADO, a minor, deceased, was a passenger in a vehicle operated by Judith Haddad in a southbound direction on County Road A at or near the intersection of Indian Hills Trail, in the City of Beaver Dam, County of Dodge, and State of Wisconsin.

20. That on August 15, 2014, the Defendant, HENRICKSEN, was operating a tractor trailer in a southbound direction on County Road A at or near the intersection of Indian Hills Trail, in the City of Beaver Dam, County of Dodge, and State of Wisconsin.

21. That at the aforementioned time and place, the vehicle the Defendant, HENRICKSEN, was operating struck the rear of the vehicle in which ILAN HURTADO, a minor, deceased, was a passenger.

22. That at the aforementioned time and place, the Defendant, HENRICKSEN, owed the duty to operate said motor vehicle in a reasonably safe manner and to exercise ordinary care and caution so as to not cause injuries to others, and specifically owed said duty to ILAN HURTADO, a minor, deceased.

23. That the Defendant, HENRICKSEN, was then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- (a) Failed to decrease the speed of said vehicle;
- (b) Failed to keep a proper lookout during the operation of said motor vehicle;
- (c) Proceeded at a speed which was greater than was reasonable and proper;
- (d) Failed to maintain control of his vehicle;
- (e) Failed to stop his vehicle to avoid a collision;
- (f) Negligently and carelessly struck the rear of Plaintiffs vehicle.

24. That one or more of the aforesaid careless or negligent acts and/or omissions of the Defendant, HENRICKSEN, was a proximate cause of the accident and personal injuries hereinafter stated.

25. That as a direct and proximate result of one or more of the aforesaid careless or negligent acts and/or omissions of the Defendant, HENRICKSEN, the decedent, ILAN HURTADO, a minor, sustained severe personal injuries, resulting in his death.

26. As a result, Plaintiff, MARCO HURTADO, father of the decedent, has suffered great losses of a personal and pecuniary nature, including loss of comfort, society, and companionship of the decedent and medical bills and funeral expenses have been incurred for the decedent subjecting the Defendant, HENRICKSEN, to liability pursuant to Wis. Stat. Section 895.03, commonly known as the Wisconsin Wrongful Death Act.

27. That the Plaintiff, MARCO HURTADO, as Father of ILAN HURTADO, a minor, deceased, brings this wrongful death action pursuant to Wis. Stat. Section 895.04.

WHEREFORE, MARCO HURTADO, as Father of ILAN HURTADO, a minor, deceased, requests that judgment be entered in his favor and against the Defendant, LEE HENRICKSEN, for an amount in excess of \$75,000.00, plus costs of this suit, and demands trial by jury.

COUNT III - PRE-DEATH LOSS OF SOCIETY AND COMPANIONSHIP - SMEDEMA

28. That on August 15, 2014, Plaintiff, MARCO HURTADO, was the father of nine (9) year old, ILAN HURTADO, a minor, deceased.

29. That on August 15, 2014, ILAN HURTADO, a minor, deceased, was a passenger in a vehicle operated by Judith Haddad, in a southbound direction on County Road A at or near the intersection of Indian Hills Trail, in the City of Beaver Dam, County of Dodge, and State of Wisconsin.

30. That on August 15, 2014, the Defendant, HENRICKSEN, was operating a tractor trailer in a southbound direction on County Road A at or near the intersection of Indian Hills Trail, in the City of Beaver Dam, County of Dodge, and State of Wisconsin.

31. That on August 15, 2014, the Defendant, HENRICKSEN, was an employee, agent, and servant of Defendant, SMEDEMA, and in the scope of his employment while operating a tractor trailer in a southbound direction on County Road A at or near the intersection of Indian Hills Trail, in the City of Beaver Dam, County of Dodge, and State of Wisconsin.

32. That at the aforementioned time and place, the vehicle the Defendant, HENRICKSEN, was operating struck the rear of the vehicle in which ILAN HURTADO, a minor, deceased, was a passenger.

33. That at the aforementioned time and place, the Defendant, SMEDEMA through its employee, agent, and servant Defendant, HENRICKSEN, owed the duty to operate said motor

vehicle in a reasonably safe manner and to exercise ordinary care and caution so as to not cause injuries to others, and specifically owed said duty to ILAN HURTADO, a minor, deceased.

34. That the Defendant, SMEDEMA, through its employee, agent, and servant Defendant, HENRICKSEN, was then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- (a) Failed to decrease the speed of said vehicle;
- (b) Failed to keep a proper lookout during the operation of said motor vehicle;
- (c) Proceeded at a speed which was greater than was reasonable and proper;
- (d) Failed to maintain control of his vehicle;
- (e) Failed to stop his vehicle to avoid a collision;
- (f) Negligently and carelessly struck the rear of Plaintiffs vehicle.

35. That one or more of the aforesaid careless or negligent acts and/or omissions of the Defendant, SMEDEMA, through its employee, agent, and servant Defendant, HENRICKSEN, was a proximate cause of the accident and personal injuries hereinafter stated.

36. That as a direct and proximate result of one or more of the aforesaid careless or negligent acts and/or omissions of the Defendant, SMEDEMA, through its employee, agent, and servant Defendant, HENRICKSEN, the decedent, ILAN HURTADO, a minor, sustained severe personal injuries, resulting in his death.

37. As a result, Plaintiff, MARCO HURTADO, father of the decedent, prior to ILAN HURTADO's death suffered great losses of a personal and pecuniary nature, including loss of comfort, society, and companionship of the decedent.

WHEREFORE, MARCO HURTADO, as Father of ILAN HURTADO, a minor, deceased, requests that judgment be entered in his favor and against the Defendant, SMEDEMA TRUCKING, INC., for an amount in excess of \$75,000.00, plus costs of this suit, and demands trial by jury.

COUNT IV - PRE-DEATH LOSS OF SOCIETY AND COMPANIONSHIP -
HENRICKSEN

38. That on August 15, 2014, Plaintiff, MARCO HURTADO, was the father of nine (9) year old, ILAN HURTADO, a minor, deceased.

39. That on August 15, 2014, ILAN HURTADO, a minor, deceased, was a passenger in a vehicle operated by Judith Haddad in a southbound direction on County Road A at or near the intersection of Indian Hills Trail, in the City of Beaver Dam, County of Dodge, and State of Wisconsin.

40. That on August 15, 2014, the Defendant, HENRICKSEN, was operating a tractor trailer in a southbound direction on County Road A at or near the intersection of Indian Hills Trail, in the City of Beaver Dam, County of Dodge, and State of Wisconsin.

41. That at the aforementioned time and place, the vehicle the Defendant, HENRICKSEN, was operating struck the rear of the vehicle in which ILAN HURTADO, a minor, deceased, was a passenger.

42. That at the aforementioned time and place, the Defendant, HENRICKSEN, owed the duty to operate said motor vehicle in a reasonably safe manner and to exercise ordinary care and caution so as to not cause injuries to others, and specifically owed said duty to ILAN HURTADO, a minor, deceased.

43. That the Defendant, HENRICKSEN, was then and there guilty of one or more of the following careless and negligent acts and/or omissions:

- (a) Failed to decrease the speed of said vehicle;
- (b) Failed to keep a proper lookout during the operation of said motor vehicle;
- (c) Proceeded at a speed which was greater than was reasonable and proper;
- (d) Failed to maintain control of his vehicle;
- (e) Failed to stop his vehicle to avoid a collision;
- (f) Negligently and carelessly struck the rear of Plaintiffs vehicle.

44. That one or more of the aforesaid careless or negligent acts and/or omissions of the Defendant, HENRICKSEN, was a proximate cause of the accident and personal injuries hereinafter stated.

45. That as a direct and proximate result of one or more of the aforesaid careless or negligent acts and/or omissions of the Defendant, HENRICKSEN, the decedent, ILAN HURTADO, a minor, sustained severe personal injuries, resulting in his death.

46. As a result, Plaintiff, MARCO HURTADO, father of the decedent, prior to ILAN HURTADO's death suffered great losses of a personal and pecuniary nature, including loss of comfort, society, and companionship of the decedent.

WHEREFORE, MARCO HURTADO, as Father of ILAN HURTADO, a minor, deceased, requests that judgment be entered in his favor and against the Defendant, LEE HENRICKSEN, for an amount in excess of \$75,000.00, plus costs of this suit, and demands trial by jury.

By: /s/ Michael J. McGuire
Michael J. McGuire
One of the Attorneys for Plaintiff

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